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S P E E C H

OF

Hon. FRANCIS P. PHELPS,

Of Dorchester County,

ON THE

ENLARGEMENT OF THE BASIS OF TAXATION.

IN THE

SENATE OF MARYLAND,

JANUARY 18th, 1876.

ANNAPOLIS:
JOHN F. WILEY & CO., PRINTERS.

1876.

ORDERED, That the Secretary of the Senate be authorized to procure from the State Printer one thousand copies of the Honorable Francis P. Phelps' Speech on the Extension of the Basis of Taxation, for distribution.

By order,

AUGUSTUS GASSAWAY,
Secretary.

Preamble and Resolutions

Offered by Hon. Francis P. Phelps, in the Senate of Maryland, January 6th, 1876.

After the reading of a message submitted by Mr. Walsh, informing the House of Delegates of the organization of the Senate, the Hon. Francis P. Phelps, of Dorchester county, submitted the following Preamble and Resolutions:

1. *Whereas*, The 15th Article of the Constitution of this State provides "every person in this State, or persons holding property therein, ought to contribute his proportion to Public Taxes for the support of the Government, according to his actual worth in real and personal property."

2. *And whereas*, The exemption of any species of property either personal or real from taxation, is in direct conflict with the plain provision of the above article just quoted, and is unequal, unjust to the people of this State, and ought not to be recognized by legislative enactments.

3. *And whereas*, It is estimated that about eighty millions of property held by the citizens of this State, is in mortgages upon personal or real property, constituting about one-fifth of the whole property of the State, and all of which amount is exempt from taxation under the laws of this State, greatly to the detriment of other property-holders of the State.

And whereas, We have recently been informed by one high in authority, that in the United States, there is at least one billion of property exclusive of church edifices, held by religious denominations, all of which is exempt from taxation, and it is estimated that at least sixty millions of the above named property exist in this State.

And whereas, Countless millions of the property in this State, held by corporations and by other Acts of the General Assembly, have been and are now exempt from taxation as before intimated, in direct violation of the spirit as well as the letter of the Constitution, amounting in the aggregate, doubtless to one-half of the taxable property in Maryland.

And whereas, All these exemptions of property from taxation is directly devolving the whole expense of the Government upon the real property of the State, thereby prostrating the whole agricultural community, for the sole benefit of others, and in some localities rendering the land of the State almost entirely worthless.

Therefore, ordered, That the committee on Finance to be hereafter appointed, be, and they are hereby, requested diligently to inquire what amount of property of all and every description both personal and real, is now exempt in this State from taxation, and whether such exemption is by law, or by acts of incorporation.

And be it further ordered, That the said Committee on Finance be requested to report to this Body at the earliest convenience, such bill as will, as far as possible, relieve every species of property now exempt from taxation, from such exemption, and that the said committee report bills to impose equal taxation on all the property of this State, personal and real, without any distinction whatever, unless barred by Acts of Incorporation or other contracts entered into by the State, and that the said Committee on Finance have leave to report by bill or otherwise.

Which was ordered to be entered upon the Journal, and lie over.

ADDRESS.

MR. PRESIDENT:—I beg the indulgence of the Senate whilst I make a few remarks by way of explanation and the enforcement of the preamble and orders I had the honor to submit to this body the first day of our session. It will be seen at one glance, that the aim and object of these orders are the establishment of equal taxation upon every species of property, real, personal and mixed, for the support of government as expressly provided by the 15th Article of the Bill of Rights, and more fully elaborated and enforced by the Act of 1835, chapter 395, originally passed for the creation of this debt, which expressly provides and stipulates in case it becomes necessary at any time hereafter, to levy a direct tax for the support of government, or to sustain the public credit, the same shall be levied according to the 13th, now 15th Article of the Bill of Rights, including all goods, wares and merchandise, belonging to citizens of the State, ships or vessels, in or out of port, moneys at interest on mortgage bonds or any chose in action, stock and public securities of every description, and all income derived from shares of every incorporated institution or otherwise, as well as every other description of property, personal, real or mixed, which escapes taxation, under existing laws, and the faith of the State is hereby pledged to this principle of taxation.

Now, Mr. President, you have the Constitution under the 15th Section of the Bill of Rights, and plainly set forth in the Act of Assembly of 1835, chapter 395. Since that time, Mr. President, we have had three Constitutional Conventions, the first in 1851, the second in '64, and the last one in '67, and each one of these Constitutions have been adopted and ratified by the people, and I wish Senators to bear in mind the 15th Article of the present Constitution of the State, in substance, if not the very letter, has been retained in each one of them. Why, sir, this is the doctrine of colonial times, and was plainly set forth in the Constitution of 1776, the force and equitable doctrine of equal taxation upon all property.

This principle of equal taxation was incorporated in the Constitution of 1851, and as already stated in both the Constitutions of subsequent adoption. Why, sir, even in that instrument of abominations, the Constitutions of '64, the upheaval of civil war, enacted amidst the glitter of Federal bayonets, and forced upon the people by votes far off in the tented field, outside and beyond the limits of Maryland, and in direct violation of the Constitution of 1851—still, sir, this doctrine of equal taxation was retained, as an oasis—as one bright spot upon its dark and benighted pages.

Again, Mr. President, the Act of '35, based upon this very Constitutional provision, has never been repealed, modified or amended, but is at this moment the law of Maryland. Now, sir, let us hastily compare this provision of the Constitution and the Act of 1835, with the existing tax laws of the State. Mortgages, Church property and all other property belonging to railroads and other incorporated companies are exempt, under the laws of this State, from taxation, in direct violation of the plain provision of the Constitution of the State, and which instrument each one of us have solemnly sworn, at your desk, Mr. President, to support; and besides, in violation of the Act of '35. I hope the Senate will pardon me whilst I return and go more into detail, and first of the Act exempting mortgage from taxation, passed, I think, in the Session of 1870.

The question naturally arises why should property, held under mortgage be exempt from taxation, in preference to other property? The first reason generally given is, that it is a *double tax*, and the second reason is, that the mortgagee obliges the mortgagor to pay the taxes upon this species of property. Now, Mr. President and Senators, let us devote a few moments to the examination of these two propositions. As to the first, that is a double tax; the same objection may be made to almost every business transaction that occurs from day to day. If a man purchases a horse, a carriage or any other species of personal property and gives his note for payment, here is at once double taxation. The note is taxed in the hands of the vendor, and the horse or carriage, as the case may be, is taxed in the hands of the purchaser.

Before this exemption of taxation upon mortgages, the usual mode of business with us was, that if a man purchased a farm

worth ten thousand dollars, and paid five thousand dollars in cash, the purchaser was expected to confess a judgment for the balance of the purchase money, so as to bind upon the land sold. In all instances of this kind the man that bought the land was taxed with the land, and the man who sold the land was taxed upon the judgment upon the docket. Here was what is now considered double taxation—tax upon the land and tax upon the judgment. So in every other monetary transaction in life, with the single exception of mortgage deeds; and, Mr. President, is there a good reason for this exception? These are separate and distinct transactions, and should not, in theory or in law, be connected one with the other.

The second objection to the tax on mortgages is, that the mortgagor is made by the mortgagee, to pay the taxes and interest also upon the property mortgaged. I ask, Mr. President, why is this so? Is there any such relic of barbarism, in the shape of laws, upon your Statute Books? If so, wipe them out, and enact other laws, annexing pains and penalties upon any and every one who would, for one moment, attempt to practice such gross injustice upon a downtrodden creditor.

Mr. President, if you attempt to exempt any one species of property from taxation, you may exempt an individual entirely from taxation, and, as is justly remarked by the Comptroller, in his recent report—then a town or even a whole county.

This doctrine of exemption is not only in violation of the Constitution, but is abhorrant to every principle of honesty and of good government, and serves to build up one class of men to the direct injury of another. Sir, this ought not to be so. Eighty millions of dollars, about one-fifth of the whole taxable property of Maryland, it is estimated, is now exempt from taxation under this abominable mortgage law, and sir, this exemption, if not arrested, will be constantly increasing. Capitalists everywhere are converting their judgments and other securities into mortgage bonds, and as taxes increase, and increase they must under existing exemption laws, mortgages will swallow up all the private securities of the State, to the direct injury of all other classes and descriptions of property.

Mr. President, I have some pleasant as well as painful reminiscences of this mortgage law. I do not mean, sir, the detested exemption law, but the Constitutional and just law imposing

taxes upon all mortgaged bonds, as well as other descriptions of property. This law reminds me more of the dead than of the living. It was one of the measures of other days, when the faith and honor of Maryland trembled in the balance, and repudiation stalked abroad in these Halls, and like the upas drop, well nigh poisoned the whole body politic, from the cloud-topped hills of Allegany, to the lowlands of Worcester, this doctrine of repudiation hovered over and permeated the whole body politic. Sir, this was one of a series of measures instituted at that day to lift Maryland out of her low and degraded condition, to the high, honorable and proud one she now enjoys with her sister States of this Union.

All comparisons are said to be invidious, and therefore, it might be improper to mention in this connection, the names of either the living or the dead, who fought this great battle to sustain, yea, and to restore the faith and honor of Maryland. Among the dead, however, I will venture to name that distinguished Jurist, and ever to be remembered christian gentleman, Chancellor Johnson, who for the most of these troublesome times, was at the head of the Committee of Ways and Means; and among the living, too much praise cannot be bestowed upon the Hon. Thomas Donaldson, of Howard county. But, Mr. President, above and beyond all others, the State owes most to that man of more than Roman firmness, Governor Thomas G. Pratt. Peace be to the ashes of this *great* and *good man*, and God grant his patriotism, virtues and integrity may ever live in the memory and grateful recollections of every Marylander.

As already intimated, this mortgage tax, now under review, was only one of a series of measures which, taken together, resulted in the restoration of the credit of the State. In the year 1839, anterior to the election of Governor Pratt, the bonds of the State could have been bought for thirty cents in the dollar, and after appropriating six hundred thousand dollars bank stock, given to the State under Gen. Jackson's administration, as part of the surplus revenue in the Treasury at Washington, and set apart by the State for the support of free schools, to the payment of arrearages of interest, due the creditors of the State, still in 1844, when Governor Pratt was elected, the taxable debt of the State was about \$12,000.000, and the arrear-

ages of interest was the enormous sum "on December 1st, 1844, of \$1,450.961, and in seven counties of the State at that time, the State tax laws were not in force."

In spite, Mr. President, of all these difficulties, complications and disaffection of the people, at the close of the administration of Governor Pratt, in 1847, the arrearages of interest had been funded and the State had resumed payment of interest upon the principal and funded debt of the State, and the bonds of the State went from thirty cents up to par, and from that time, both in peace and war, the credit of the State has been unimpaired. So much, Mr. President, in memory of the illustrious dead. It was my fortune to hold a seat in one or the other wings of this Capitol during all these troublesome times, and six years of that time, was connected with the Finance Committee of this House.

I hope, Mr. President, that you and the Senate will pardon me for saying the proudest memory of my public life, now about to close, is, that I had the courage to vote for all these revenue measures, which brought such blessings to our Commonwealth.

The time was, Mr. President, when age and long public service were thought to indicate wisdom and fitness for public station. Not so now ; no, sir, not so ! Men who have rendered most service to the State, are often requested to take back seats, and others are thrust forward. Not only is this so in the councils of State, but also in the tented field. The hero of a hundred battles all stained, it may be, with the blood and brains of a vanquished foe, is placed on the retired list in order to make room for some tyro who never smelt gun powder. This, in my judgment, is disgraceful to our advanced civilization. Sir, so far as it concerns myself, I wish it distinctly understood, so long as I am clothed in the habiliments of a Maryland Senator, just that long will I ever be found in the *front* doing battle for the rights of the people who sent me here, and no power, regardless of the source from whence it may come, shall ever deprive me of the dignity and right I hold on this floor. I will not down at the bidding of any man who, perchance, may be clothed with brief authority. I beg pardon of the Senate for devoting so much time to this portion of the subject, and promise to be more brief in the further discussion upon these orders.

The next subject of taxation adverted to, is that of Church property ; and before I proceed further, will remark, it is no part of my purpose to stir up, in any manner, sectarian strife. I believe, Mr. President, in that great fundamental principle which underlies the foundation of this great Republic—“*religious liberty*” and that ever blessed Constitutional guarantee, that every man shall be free to worship Almighty God in accordance with his own conscience, and that no religious test should be exacted of any man. Whilst I make this bold and honest declaration on my part, I asked why Church property should, in all its parts, be exempt from taxation. The Church edifices of reasonable cost should be exempt I have no objection, and that private grave yards should also be exempt is reasonable and just. It should doubtless be the policy of the State to encourage religion and good morals among all its citizens, both poor and rich. But, Mr. President, whilst I concede this much, I see no good reason why Church Palaces and incorporated cemeteries, the latter gotten up as money making and money getting institutions, for the purposes of selling of lots at exorbitant prices, should be excused, under exemption laws, from bearing their just proportion of the burthens of government. Not only so, but many, very many of these religious denominations own vast quantities of real estate, and every possible variety of private as well as public securities, amounting, as I am informed, to some sixty millions of dollars. In these estimates we do not expect perfect accuracy ; that is impossible. If this estimate approximate the truth, one-seventh of all the property in the State is exempt from taxation under the rights and privileges of these exemption laws. I mean, Mr. President, this religious branch of exemption laws alone.

The third and last proposition contained in these orders is, that the Committee on Finance report Bills to the Senate enforcing equal taxation upon all property held by railroads and other incorporated bodies, unless barred by these corporate privileges, or special contracts to the contrary, entered into by the State.

The Senate will please pardon me for again adverting to the provision of the Act of 1835, chapter 395, which I have had occasion to quote in the commencement of my remarks. This Act, which is still in your law books, and is in full force this

day, expressly provides, "that all income derived from shares of incorporated institutions or otherwise, shall bear their full proportion of taxation for the support of government."

Now, Mr. President and Senators, I ask you, in view of this provision of law, aside from the direct letters of the Constitution, with what show of propriety can railroads and other incorporated bodies, claim exemption from taxation and refuse, out of their income to contribute a fair and equitable share of taxation for the support of government? Why, Mr. President, you know, and every Senator upon this floor knows full well, that but for these works of internal improvement, Maryland this day would not owe a single dollar—that the very beginning, middle and end of our indebtedness has been created by lending the credit of the State to these works of internal improvements. Perhaps the defense loan, created in the time of war, may be an exception to this statement. Now, sir, I am not here to say one word against any one of the works of internal improvements of this State. They have served to develop the country, and have doubtless contributed largely to our prosperity and advanced civilization. But I do say this, in the presence of the Senate of Maryland, and to the people of the whole State, these incorporated institutions ought to be *made*, out of their millions of income and other property, to pay their just proportion of the taxes of the State. Look, sir, at their immense depots, their machine shops, their mammoth hotels all along the lines of these great thoroughfares, now erected, and still to be erected, their grain elevators, their ships upon the great ocean, and thousands of other property scattered all over the land, and all and every species and description of this property, real, personal and mixed, claiming exemption from taxation under cover of their corporate authorities. It is a trite saying that corporations have bodies but *no souls*, and the above statements of facts give some coloring at least to such an allegation. Mr. President, we are informed by the Comptroller in his Report now upon our desks, that the above mentioned property belonging to these incorporated bodies, and claiming to be exempt from taxation, constitutes one-seventh of the taxable property of the State, and as I have shown, in my foregoing remarks, that it is estimated eighty millions of dollars are now exempt from taxation under the mortgage law,

and sixty other millions held by the different religious denominations of the State, making a grand total of two hundred millions of dollars, or nearly one-half the taxable property of Maryland, the whole being computed at four hundred and twenty millions, bear no part of the burthens of government. Now, sir, I ask you in all candor, I ask each and every Senator on this floor, is this right? Is this just and proper? Above all and beyond all, is it in accordance with the fundamental law of the State, the Constitution under which we live? Is it in accordance with the solemn contract entered into at the time of the passage of the eight million loan bill, passed, as set forth in the Act of Assembly 1835, and which Act still remains in full force, neither repealed nor modified by subsequent legislation? Is it right, I would ask, that these mammoth institutions, Anaconda-like, should swallow up, if allowed to increase and multiply, as increase and multiply they assuredly will, the whole revenues of the government, to the direct impoverishment of all other interest in our common country? Is it right and proper, Mr. President, that incorporations should enjoy their immense wealth, and be protected by the laws of the land in "life, liberty and the pursuit of happiness," without contributing one cent to the support of government, or for the protection of our blessed institutions?

No, sir! The common sense of an impoverished country will answer in tones of thunder, no, sir, never! What, may I enquire, is the result of all this exemption from taxation, what the tendency? The answer is to build up in our midst an *overgrown aristocracy* of wealth, on one hand, and on the other a downtrodden, impoverished yeomanry all over the land. The tendency is to make the rich man richer and the poor man still more impoverished.

It is evident the expenses of the government must and will go on, that a given amount must be annually levied upon the property of the State, and if by our exemption laws, one-half of any other proportion of the property of the State escape taxation, to that extent precisely will the burthens be increased upon other descriptions of property, and the land being always visible, the great burthens of government will most unquestionably fall upon the agricultural portion of our population—the farmers of the State—the hard fisted, hard working portion

of our people will, by this class legislation, "become mere hewers of wood and drawers of water for the rest of mankind." Sir, I need not tell you and the Senators in this Chamber, that the farming interest of the State is now greatly depressed; yea, more so than any other department of labor. This is owing mainly to the high price of field hands and the low prices of the productions of the earth. This class of our population requires the fostering care of the State, and not the iron heel of oppression upon their necks. At all events they should not be expected to pay more, by way of taxation, than others of the community. The cry of reform is heard throughout Maryland, and this equalization of taxation, Mr. President, would afford more relief to the people than all other measures within our reach. Besides, sir, it is right, it is just before God and man, it is the very foundation of all good government. Equal taxation and equal liberty, and equal rights to all! To every man, be he rich or poor. I thank God, Mr. President, the farmers of this country are beginning to understand their rights, and by their organizations will soon be able, at the ballot-box, to *demand* and enforce them. If their rights are not granted willingly, the Halls of Legislation throughout this broad land of ours, will be made to feel and properly to respect their combined and overwhelming influence and numbers. They are already the great source of wealth and of power; and the prosperity of the nation is more dependant upon them than upon all others besides. Strike down the agricultural interest of the country, and the wealth and prosperity of the nation is at an end. They ask nothing at our hands but even-handed justice. They are not now, or never have been, an aggressive people. "They are patient and long suffering," but we owe it to ourselves, and justice demands equal taxation for all. Our government, like the dews of Heaven, should distill its blessings alike upon all.

These remarks, Mr. President, have been made in the interest of humanity and of good government, they have been made in defense of the laboring man, of the downtrodden and impoverished tillers of the soil. These utterances are due to the people of Maryland and especially to that portion of the people whom I immediately represent in this Chamber, and who have so often clothed me with power to represent them in both branches of this General Assembly.

My public life, Mr President, is about to close, and I have the proud consolation to know that among the last efforts of my public life, was in defense of the dearest and just rights of the people, by the establishment of equal taxation upon all and every description of property, in accordance with the express provisions of the Constitution of the State.

My strength is exhausted, and I thank the Senate for their kind indulgence.

